

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DENISE WADE

PLAINTIFF

v.

No. 4:13-cv-48-DPM

**BAPTIST HEALTH; DEBRA LANGLEY;
and NAOMI WALLIS**

DEFENDANTS

ORDER

1. The Court appreciate the parties' supplemental filings. *No 31 & 32.*

Even though there are genuine issues of material fact about retaliation, Wade sustained no recoverable damages. The material facts on damages are undisputed. And for the reasons explained, and based on the authorities cited, in Baptist's supplement, *No 32 at 1-7*, the hospital defendants are entitled to judgment as a matter of law on Wade's FMLA claim.

2. The hospital defendants are entitled to summary judgment on Wade's ERISA claim too. As the Court held earlier, this claim rises or falls with her FMLA claim. *No 26 at 7.*

3. Having dismissed the federal claims, the Court declines to exercise its supplemental jurisdiction over Wade's state law claim for wrongful termination. 28 U.S.C. § 1337(c). This claim raises a novel issue: whether

violating a federal statute that has no state sibling violates state public policy.

The Court leaves this unsettled question to the Arkansas courts. *Gregory v. Dillard's, Inc.*, 565 F.3d 464, 477 (8th Cir. 2009).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

13 August 2014